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PTO/SB/21 (08-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

OFFICE OF PETITIONS

Application Number	09/653,267
Filing Date	08/31/2000
First Named Inventor	Meir Eini
Art Unit	1616
Examiner Name	M. Haghighatian
Attorney Docket Number	113873.120US2

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	- Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	Renewed Petition U. 37 CFR 1.137
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks Also enclosed are copies of: (1) Response to Office Action filing; and (c) Decision on Petition	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Mary Rose Scozzafava
Signature	<i>Mary Rose Scozzafava</i>
Date	02/06/2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Janet McKean		
Signature	<i>Janet McKean</i>	Date	02/06/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE FEB 11 2004
(Attorney Docket No. 113973.120US2)

OFFICE OF PETITIONS

In re Application of: Meir Eini et al .)

Examiner: M. Haghighatian

Serial No: 09/653,267)

Group Art Unit: 1619

Filing Date: August 31, 2000)

For: PHARMACEUTICAL AND COSMETIC CARRIER OR COMPOSITION FOR
TOPICAL APPLICATION

#26

Certificate of Mailing: Date of Deposit: February 6, 2004

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Mail Stop Petitions Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Janet McKean

Printed name of person mailing correspondence Signature of person mailing correspondence

Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

Dear Sir:

Applicants renew their petition under 37 C.F.R. § 1.137(b) to revive an unintentionally abandoned application.

A petition to revive the above-identified application was dismissed because a review of the application file did not reveal that a response to the final Office Action mailed June 11, 2003 had been filed. See, Decision on Petition, mailed January 13, 2004 (copy enclosed). All other requirements were found to have been met. *Id.*

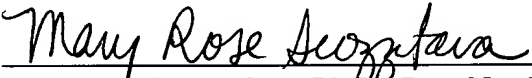
Applicants request consideration of their petition because a response was timely filed within the statutory response period. A Response to the Final Office Action was mailed on December 11, 2003, along with a Petition for a three month extension of time to extend the period of response up to and including December 11, 2003. A copy of the Response, including a stamped returned postcard indicating receipt by the United States Patent Office, is enclosed.

It is submitted that this submission satisfies the reply required under 37 C.F.R. 1.137(b)(1). Granting of the renewed petition is respectfully requested.

Please charge any additional fees due in connection with this matter, or credit any overpayment to Deposit Account No. 08-0219. If there are any questions, please call the undersigned at the telephone number indicated below.

Respectfully submitted,

Date: February 6, 2004


Mary Rose Scozzafava, Ph.D., Reg. No. 36,268
Attorney for Applicant

HALE AND DORR LLP
60 State Street
Boston, MA 02109
(617) 526-6000
(617) 526-5000 (Facsimile)



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HALE AND DORR LLP

Paper No. 25

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JAN 13 2004

OFFICE OF PETITIONS

MARY ROSE SCOZZAFAVA, ESQ
HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

RE: 113873.120 US2

In re Application of

Action Date: 3/15/04

Eini, et al.

Action to be Taken: Reconsideration

Docketed By: VC On: 1/16/04

Application No. 09/653,267

DECISION ON PETITION

Filed: August 31, 2000

Attorney Docket No. 00/20309

This is a decision on the petition under 37 CFR §1.137(b), January 5, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed June 11, 2003. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period and the application became abandoned on September 12, 2003

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

A review of the application file did not reveal a response filed to the final Office action mailed June 11, 2003. The Request for Continued Examination is noted, however; petitioner is either required to file an amendment or and Information Disclosure Statement with the Request for Continued Examination. No amendment or Information Disclosure Statement filed after the final Office action was mailed was noted. It is concluded, therefore, that a proper response to the final Office action has not been filed and such a response must be filed before the application can be revived.

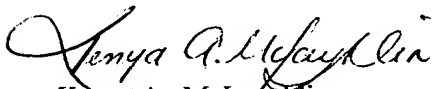
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

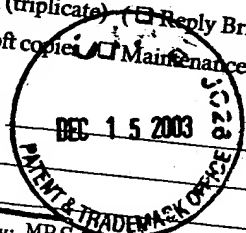

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



COPY

PHARMACEUTICAL AND COSMETIC CARRIER OR COMPOSITION FOR
Title: TOPICAL APPLICATION
Serial/Patent #: 09/653,267/1 Inventor: Meir Eini Applicant: Tamarkin Med. C.
The following have been received by the US Patent and Trademark Office on the date stamped hereon:
☐ Express Mail Label No. ☒ Fee Transmittal Form ☒ Transmittal Form
☐ Certificate of Mailing - 37 CFR 1.8 (a) ☐ Deposit Account Authorization
☒ Applicant Claims Small Entity Status ☐ Copy of/☐ Response to: Notice to File Missing Parts
☐ Provisional Application Cover Sheet ☐ Preliminary Amendment
☐ New Application (____ Design) ☐ IDS, PTO-1449, and ____ publications (Supl ____)
Specification - Total Pages ____ ☐ Sequence Listing ☐ CD-ROM ☐ Disc (CRF) ☐ Paper
Formal Drawings - Total Sheets ____ ☒ Petition for ____ month extension of time
☐ CPA application ☐ RCE application ☒ Response to Office Action / Restriction Req.
☐ Oath of Declaration: ____ newly executed ☐ Notice of Appeal
____ unsigned; ____ copy from priority case ☐ Appellant's Brief (triplicate) ☐ Reply Brief
☐ Assignment and Recordation Form ☐ Issue Fee + ____ soft copies ☐ Maintenance Fee
☐ Application Data Sheet (Initial Information Data Sheet)
☐ Continuation ☐ Divisional ☐ Continuation-in-Part of App No. ____
☒ Other: Post Card
☐ Other: ____
Mailing Date: 12/11/03 CM No. 113873.120US2 Filed By: MRS/1m

PHARMACEUTICAL AND COSMETIC CARRIER OR COMPOSITION FOR
Title: TOPICAL APPLICATION
Serial/Patent #: 09/653,267/1 Inventor: Meir Eini Applicant: Tamarkin Med. C.
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☒ Applicant Claims Small Entity Status ☐ Copy of/☐ Response to: Notice to File Missing Parts
☐ Provisional Application Cover Sheet ☐ Preliminary Amendment
☐ New Application (____ Design) ☐ IDS, PTO-1449, and ____ publications (Supl ____)
Specification - Total Pages ____ ☐ Sequence Listing ☐ CD-ROM ☐ Disc (CRF) ☐ Paper
Formal Drawings - Total Sheets ____ ☒ Petition for ____ month extension of time
☐ CPA application ☐ RCE application ☒ Response to Office Action / Restriction Req.
☐ Oath of Declaration: ____ newly executed ☐ Notice of Appeal
____ unsigned; ____ copy from priority case ☐ Appellant's Brief (triplicate) ☐ Reply Brief
☐ Assignment and Recordation Form ☐ Issue Fee + ____ soft copies ☐ Maintenance Fee
☐ Application Data Sheet (Initial Information Data Sheet)
☐ Continuation ☐ Divisional ☐ Continuation-in-Part of App No. ____
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OFFICE OF U.S. PATENT AND TRADEMARK

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/653,267
	Filing Date	08/31/2000
	First Named Inventor	Meir Eini
	Art Unit	1616
	Examiner Name	M. Haghighatian
Total Number of Pages in This Submission	Attorney Docket Number	113873.120US2

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Postcard - Response to Office Action
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Mary Rose Scozzafava		
Signature	<i>Mary Rose Scozzafava</i> Reg No. 36,268		
Date	12/11/2003		

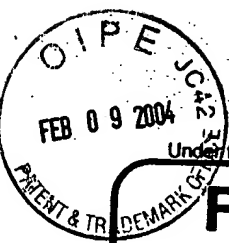
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Typed or printed name	Janet McKean		
Signature	<i>Janet McKean</i>	Date	12/11/2003

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 475.00

Complete if Known

Application Number	09/653,267
Filing Date	08/31/2000
First Named Inventor	Meir Eini
Examiner Name	M. Haghighatian
Art Unit	1616
Attorney Docket No.	113873.120US2

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

08-0219

Hale and Dorr LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	-20** =	X	
Multiple Dependent	-3** =	X	
		0	0

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$) 0.00

**or number previously paid, if greater, For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	475.00
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 475.00

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Mary Rose Scozzafava	Registration No. (Attorney/Agent)	36,268	Telephone	617.526.6000
Signature		Date	12/11/2003		

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